

December 18, 2012

[REDACTED]

[REDACTED]

[REDACTED]

RE: Abusive and Neglectful Treatment of [REDACTED] at the Iowa Juvenile Home in Toledo

Dear Ms. [REDACTED]:

I am the Executive Director of Disability Rights IOWA (DRI), the federally-mandated and funded protection and advocacy system in the state of Iowa for individuals with disabilities. I am writing to alert you to the harmful conditions and treatment of a client of yours who is a resident of the Iowa Juvenile Home in Toledo, Iowa (IJH) and has been isolated in a concrete prison-like cell for more than 73 days.

Under federal law, Disability Rights IOWA has the authority to investigate abuse and neglect, pursue legal and other approaches to protect the rights of individuals with disabilities and report the results of an investigation to responsible enforcement agencies. DRI staff and agents have been monitoring the conditions and treatment of residents at Toledo for the last month pursuant to this federal authority. 42 U.S.C. § 10805(a)(3) and 42 C.F.R. § 51.42(c).

At the outset, we want to commend the staff of Toledo for their helpful, courteous, and professional conduct throughout the course of our monitoring. However, we are extremely concerned that [REDACTED] is suffering serious psychological and physical harm by being secluded for lengthy periods of time in a concrete control room at IJH.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Under Iowa law, the IJH is supposed to be providing a placement for children who have been placed there because a court has determined that they are in need of assistance. Iowa Code § 232.102(3) (2012). These youth are typically in need of services and supports that are therapeutic in nature. However, there is no evidence that seclusion is therapeutic in any way. According to an article in the Washington University Journal of Law and Policy, isolation of youth causes depression, agitation, re-traumatization, increases the risk of suicide, and denies the youth an education. Sandra Simkins, Marty Beyer, & Lisa M. Geis, *The Harmful Use of Isolation in Juvenile Facilities: The Need for Post-Dispositional Representation*, 38 Wash. U. J.L. & Pol'y 241, 257-259 (2012). Isolation is defined as "placing a youth alone in an unfurnished cell for as much as twenty-three hours a day, usually for disciplinary, safety or administrative purposes." *Id.* at 252. The United States District Court in Indiana has held that the use of isolation in a Boys School (similar to the control room setting at IJH) was "both cruel and unusual punishment" based upon expert testimony that stated the prolonged isolation used was "emotionally and psychologically debilitating and serv[ed] neither treatment nor punitive goals." *Nelson v. Heyne*, 355 F.Supp 451, 456 (N.D. Ind. 1972).

According to Iowa law the IJH must comply with the standards in Iowa Administrative Code 441- Chapter 115. Iowa Admin. Code r. 441-101.2(1)(a) (2012). These standards state that "in no case shall a child be in a control room for a period longer than 24 hours." Iowa Admin. Code r. 441-115.7(4)(h) (2012). This law is currently being violated with [REDACTED] living in a control room at IJH for over 73 days.

Furthermore, the Center for Medicaid and Medicare Services (CMS) has established the professional standards which psychiatric treatment providers must follow when secluding children and youth under the age of 21. 42 C.F.R. § 483.352. Although the IJH is not covered by the CMS conditions of participation, these regulations reflect what constitutes professional standards for the use of seclusion. Specifically, orders for seclusion must be made by a physician or licensed practitioner, seclusion may not exceed 2 hours for residents ages 9 to 17

and the use of seclusion should be no longer than the duration of the emergency situation. 42 C.F.R. § 483.352(a) and (e)(1).

We would not be writing to you unless we had serious concerns about [REDACTED] safety. We are not a party to [REDACTED] juvenile court case, but we urge you to take appropriate steps to review [REDACTED] current situation and to petition the court to move [REDACTED] into a safer, therapeutic setting that would prepare [REDACTED] for transition back to living in a community placement. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] If you would like to visit the IJH this week with the staff attorney from DRI assigned to the monitoring of the IJH so that he may answer any of your questions, please give us a call at (515) 278-2502.

Sincerely,

Jane Hudson, Executive Director

Disability Rights Iowa

Cc:

[REDACTED], District Court Judge,

[REDACTED], Chief District Court Judge,

[REDACTED], Assistant [REDACTED] County Attorney

[REDACTED], Mother of [REDACTED]

Attorney for Mother

Gretchen Kraemer, Assistant Attorney General

Deborah Hanus, Superintendent of Iowa Juvenile Home at Toledo